

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:

**Clyde W. Lumpkins,
Sharon B. Lumpkins,**

Debtors.

Chapter 7

Case No. 09 B 15744

Hon. Susan Pierson Sonderby

NOTICE OF MOTION

To: See attached Service List

PLEASE TAKE NOTICE that on **June 29, 2011, at 10:00 a.m.**, we will appear before the Honorable Susan Pierson Sonderby, Courtroom 642, Dirksen Federal Building, 219 South Dearborn Street, Chicago, Illinois and then and there present our **Application of Toby P. Mulholland of Law Offices of Jason H. Rubens, P.C. for Final Compensation and Expense Reimbursement and Motion to Shorten Notice**, a copy of which is attached hereto.

Date: June 15, 2011.

**David P. Leibowitz, not individually, but as the
chapter 7 trustee of the Debtor's estate**

By:/s/ *David P. Leibowitz*

David P. Leibowitz (ARDC # 1612271)
Lakelaw
420 W. Clayton Street
Waukegan, Illinois 60085-4216
847.249.9100

CERTIFICATE OF SERVICE

On June 15, 2011, the undersigned, certifies that on this date, she caused a copy of the above document to be served upon each person shown on the within Notice, by first class United States Mail, with postage prepaid, at Waukegan, Illinois. Those marked with an * were served via CM/ECF, the Court's electronic notification system.

/s/ Aquanda S. Thomas
Paralegal

Service List

AMO Recoveries

Attn: Bankruptcy

PO Box 8005

Cleveland, TN 37320-8005

Bank of America

1422 E. Grayson

San Antonio, TX 78208-1418

Captial One

P.O. Box 30285

Salt Lake City, UT 84130-0285

Citi Financial Mortgage

Attention: Bankruptcy department

P.O. Box 79022 Ms 322

St. Louis, MO 63179

Discover Financial

Attention: Bankruptcy Department

P.O. Box 3025

New Albany, OH 43054-3025

First Farmers and Merchants Bank

P.O. Box 1148

Columbia, TN 38402-1148

Internal Revenue Service

Centralized Insolvency Operations

P.O. Box 7346

Philadelphia PA 19101-7346

Law Offices of Mitchell N. Kay, P.O.

P.O. Box 2374

Chicago, IL 60690-2374

Lvnn Funding LLC

P.O. Box 740281

Houston, TX 77274-0281

Nationwide Credit & Collections Inc.

9919 Roosevelt Road

Westchester, IL 60154-2774

Payment Amer

POB 24850

Nashville, TN 37202-4850

Recovery Management Systems Corporation

For Capital Recovery III LLC

as Assignee of CitiFinancial, Inc.

25 SE 2nd Avenue, Suite 1120

Miami, FL 33131-1605

Recovery Management Systems Corporation

For GE Money Bank

Dba Sam's Club Discover

25 SE 2nd Avenue, Suite 1120

Miami, FL 33131-1605

Solutia Tas

507 N. Garden St.

Columbia, TN 38401-3219

US Bank

P.O. Box 5229

Cincinnati, OH 45201-5229

VW Credit, Inc.

Post Office Box 829009

Dallas, Texas 75382-9009

Wachovia Dealer Services, Inc.

BK Department

PO Box 19657

Irvine CA 92623-9657

American Infosource LP as Agent for

Cach LLC

PO Box 248838

Oklahoma City, OK 73124-8838

Automated Collections

2285 Murfreesboro Rd. Ste 200

Nashville, TN 37217-3348

Cen/virtual Bank

3801 Pga Blvd

Palm Beach Gardens, FL 33410-2770

Countrywide Home Lending

Attention: Bankruptcy SV-314B

P.O. Box 5170

Simi Valley, CA 93062-5170

First Premier Bank
PO Box 5524
Sioux Falls, SD 57117-5524

JC Penney
Attention: Bankruptcy Department
P.O. Box 10306
Roswell, GA 30076-9106

Patrick S. Layng
Office of the U.S. Trustee, Region 11
219 S. Dearborn St., Room 873
Chicago, IL 60604-2027

Clyde W. Lumpkins
3742 S. Elmwood
Berwyn, IL 60402-4038

Michelle E. Mandroiu
Chang & Carlin
1305 Remington Rd., Suite C
Schaumburg, IL 60173-4820

P Scott Lowery PC
4500 Cherry Creek Drive South, Suite 700
Denver, CO 80246-1534

Premier BankCard/Charter
P.O. Box 2208
Vacaville, CA 985696-8208

Recovery Management Systems Corporation
For Captial Recovery III LLC
As Assignee of Sears – Sears Gold Master
25 SE 2nd Avenue, Suite 1120
Miami, FL 33131-1605

Rita Reynolds
3742 S. Elmwood Ave.
Berwyn, IL 60402-4038

Unvl/citi
Attn: Centralized Bankruptcy
PO Box 20507
Kansas City, MO 64195-0507

Vanderbilt Mortgage and Finance, Inc.
PO Box 9800
Maryville, TN 37802-9800

Afni, Inc.
Attn: DP Recovery Support
PO Box 3427
Bloomington, IL 61702-3427

Bac Home Loans Servicing, L.P. Fka Countrywide
2270 Lakeside Blvd.
Third Floore
Richardson, TX 75082-4304

Brook & Scoot, PLLC
1315 Westbrook Plaza Dr.
Winston Salem, NC 27103-1357

Stewart A. Chapman
Pierce & Associates
1 North Dearborn, Site 1300
Chicago, IL 60602-4373

Discover Bank
DFS Services LLC
PO Box 3025
New Albany, Ohio 43054-3025

Gemb/sams Club DC
Attn: Bankruptcy
PO Box 103106
Roswell, GA 30076-9106

Livingston Financial, LLC as Successor in Interest
to US Bank
c/o Messer lie & Kramer, PA
3033 Campus Dr., Ste 250
Plymouth, MN 55441-2662

Sharon B. Lumpkins
3742 S. Elmwood
Berwyn, IL 60402-4038

Midland Credit Mgmt
8875 Aero Dr, Ste 200
San Diego, CA 92123-2255

PYOD LLC its successors and assigns as assign
Citibank
c/o Resurgent Captial Services
PO Box 19008
Greenville, SC 29602-9008

Receivables Management
Attn: Bankruptcy
409 Bearden Park Circle
Knoxville, TN 37919-7448

Recovery Management Systems Corporation
For GE Money Bank
Dba JC Penny Credit Services
25 SE 2nd Ave, Ste 1120
Miami, FL 33131-1605

Rush Oak Park Hospital
520 S. Maple Ave.
Oak Park, IL 60304-1097

Transworld Systems, Inc.
6555 Quince Road, #311
Memphis, TN 38119-8218

VW Credit, Inc.
P.O. Box 829009
Dallas, TX 75382-9009

Volkswagen Credit Union
1401 Franklin Blvd.
Libertyville, IL 60048-4460

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:

**Clyde W. Lumpkins,
Sharon B. Lumpkins,**

Debtors.

Chapter 7

Case No. 09 B 15744

Hon. Susan Pierson Sonderby

APPLICATION OF TOBY P. MULHOLLAND AND THE LAW OFFICES OF JASON H. RUBENS FOR FINAL COMPENSATION AND EXPENSE REIMBURSEMENT AND MOTION TO SHORTEN NOTICE

Toby P. Mulholland and The Law Offices of Jason H. Rubens, P.C. (collectively, “Rubens”), personal injury counsel for David P. Leibowitz (“Trustee”), chapter 7 trustee of the bankruptcy estate (“Estate”) of Clyde W. Lumpkins and Sharon B. Lumpkins (“Debtors”), hereby seek final compensation in the amount of \$17,000.00, an amount equal to one-third (1/3%) of the gross recovery of \$51,000.00 – pursuant to a contingent fee agreement approved by this Court on March 31, 2011. *See* Docket No. 34. Rubens services, as counsel to the Trustee for personal injury matters, were beneficial to the bankruptcy estate and are compensable under sections 330 (a) and 331 of the Bankruptcy Code. In support of this Application, the Trustee states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this case pursuant to 28 U.S.C. § 1334 and venue is proper pursuant to 28 U.S.C. § 1408.
2. By Internal Operating Procedure 15 of the United States District Court for the Northern District of Illinois, the District Court has referred all bankruptcy cases to the Bankruptcy Court for initial determination, as permitted by 28 U.S.C. § 157(a).

3. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O).

BACKGROUND OF THE CASE AND NATURE OF THE SERVICE PROVIDED

4. Debtors, by and through their attorney, filed a voluntary chapter 7 bankruptcy petition on April 30, 2009. *See* Docket No. 1.

5. David P. Leibowitz was thereafter appointed as the interim trustee for the Estate.

6. On June 17, 2009, the first meeting of creditors was held and no trustee was elected. Therefore, the Trustee became the permanent trustee of the Debtors' estate.

7. Prior to the commencement of this case the Debtors had asserted a personal injury claim against State Farm Insurance ("State Farm"). The claim was captioned: *Clyde and Sharon Lumpkins v. State Farm Insurance.*

8. Rubens services consisted primarily of pursuit of Debtors' personal injury claims against State Farm.

9. On March 31, 2011, Trustee received the Court's authorization to employ Toby P. Mulholland and The Law Office of Jason H. Rubens, P.C., as his personal injury counsel to pursue the claim against State Farm on a contingency fee basis.

10. No time records are submitted in conjunction with this application because the Court approved the retention of Rubens on a contingent bases. Rubens services provided a substantial recovery, resulting in payment of all creditors.

THE REASONABLENESS OF THE COMPENSATION REQUESTED

11. Section 330(a) of the Bankruptcy Code governs the compensation of professionals employed pursuant to section 327 of the Bankruptcy Code. It provides in pertinent part that:

(A) Reasonable compensation for actual, necessary services rendered by the trustee, examiner, ombudsman, professional person, or attorney and by any paraprofessional person employed by any such person; and

(B) Reimbursement for actual, necessary expenses.

11 U.S.C. § 327.

12. The value of professional services cannot be precisely determined by the application of a mathematical formula to a set of facts; the Court should consider the “ensemble” of services provided. *Matter of Continental Illinois Securities Litigation*, 962 F.2d 566, 572 (7th Cir. 1992).

13. Based on the extent, nature and value of the services rendered, the cost of comparable services in non-bankruptcy cases, the time spent on such services, the results achieved to date and the contingency fee arrangement in which counsel was employed by the Trustee, the compensation requested by Rubens is fair and reasonable, and its allowance and payment in full is justified.

REQUESTED RELIEF

14. Trustee request that this Honorable Court enter an order (a) shortening the notice period of this Motion, and (b) allowing the Trustee to pay the estate’s personal injury counsel: (1) \$17,000.00, representing one-third (1/3%) of the gross recovery on the estate’s personal injury claim; and (2) \$1,975.14 for reimbursement of expenses.

15. Based on the services provided and the results achieved, the Trustee believes that the allowance and payment of compensation and expense reimbursement in the amounts requested in this Application are reasonable and proper.

NOTICE

16. The Trustee has provided 14 days notice of this Application to: (a) the Office of the United States Trustee; (b) all creditors who have allowed claims in this case; and (c) parties who have previously requested notice of pleadings and proceedings herein. Trustee requests that

the Court waive any notice requirements Pursuant to FED. R. BANKR. P. 2002(a)(2) and to find the notice period to be sufficient under the circumstances. Applicant suggests that no further notice is necessary and the Court should find that no other or further notice is required.

WHEREFORE, the chapter 7 trustee requests authority to settle this matter and respectfully request that this Court enter an Order (i) allowing Toby P. Mulholland and The Law Offices of Jason H. Rubens, P.C., compensation in the amount of \$17,000.00 for professional services rendered on behalf of the Trustee; (ii) allowing reimbursement of expenses incurred in the amount of \$1,975.14; (iii) authorizing the Trustee to pay all allowed compensation and expense reimbursement to special co-counsel; (iv) finding the shorten notice period sufficient under the circumstances; and (v) granting such other and further relief as may be equitable in the circumstances.

/s/ David P. Leibowitz

David P. Leibowitz, Not individually but as the chapter 7 trustee of the Debtor's bankruptcy estate

David P. Leibowitz (ARDC # 1612271)
Lakelaw
420 W. Clayton Street
Waukegan, Illinois 60085-4216
847.249.9100